

## ELECTION WITH TRAVERSE

Applicant disagrees with Examiner's requirement for Election and requests reconsideration and withdrawal of the requirement.

Examiner has identified three (now two) species in the application. Applicant has elected species 1, drawn to Figures 1 and 4.

Examiner has acknowledged that Claims 1 and 16 are generic. This is appropriate. These two independent claims form the root and basis for both species as identified by the examiner.

However, the examiner has insisted upon an election requirement. MPEP 808 enumerates the Reasons for Insisting Upon Restriction:

"Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why *\*\*>each invention< as claimed \*>*is< either independent or distinct >from the other(s)<; and (B) the reasons >why there would be a serious burden on the examiner if restriction is not required, i.e., the reasons< for insisting upon restriction therebetween as set forth in the following sections."

The Examiner has not provided an explanation supporting this election requirement in accordance with MPEP 808.

With respect to the two species identified by the examiner, MPEP 808.01 explains the Reasons for Holding of Independence or Distinctness.

"\*\*>The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of

conclusion is inadequate. The reasons upon which the conclusion is based should be given.

For example, relative to a combination and a sub-combination thereof, the examiner should point out the reasons why he or she considers the subcombination to have utility by itself or in other combinations, and why he or she considers that the combination as claimed does not require the particulars of the sub-combination as claimed.


Each relationship of claimed inventions should be similarly treated and the reasons for the conclusions of distinctness or independence set forth.”

The Applicant understands the great demands placed upon the examiner’s time, and does not wish to delay the process unnecessarily. Though the non-elected claims may be added back to the application upon the allowance of a generic claim, the applicant believes that the process would be far more efficiently accomplished if the application remains intact.

To restate, each of the two species defined by the Examiner are rooted in shared *generic* independent claims. The Examiner has provided no reason to support his Election Requirement.

The Applicant respectfully elects Species 1, directed to Figures 1 and 4.

Respectfully submitted,  
(Busuito)

A handwritten signature in black ink, appearing to be 'J. Busuito', written over a horizontal line.

(Attorney for Applicant)

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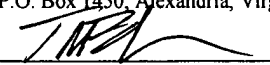
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Date 8 February 2006

Timothy M. Barlow

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